

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 WILLIE TATUM, No. C-10-4419 TEH (PR)  
12 Petitioner,  
13 v. ORDER TO SHOW CAUSE  
14 R. GROUNDS, Warden,  
15 Respondent.

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18 Petitioner, a California state prisoner incarcerated at  
19 the Correctional Training Facility in Soledad, California, has filed  
20 a pro se Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2254  
21 challenging the decision of the California Board of Parole Hearings  
22 ("BPH") to deny him parole at his June 5, 2009 parole suitability  
23 hearing. Doc. #1-1 at 8. Petitioner has paid the filing fee.

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25 I  
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27 According to the Petition and the attachments thereto,  
28 Petitioner pled guilty in 1982 in Los Angeles County Superior Court  
to two counts of kidnapping for robbery and was sentenced to a term

1 of seven years-to-life in state prison. Doc. #1-1 at 2. His  
2 minimum eligible parole date was February 28, 1982. Id. at 2.  
3 Petitioner filed a pro se petition for writ of habeas corpus  
4 challenging BPH's decision to deny him parole in the Los Angeles  
5 Superior Court, which the court denied on April 27, 2010. Doc. #1-1  
6 at 4. Petitioner subsequently filed a petition in the California  
7 Court of Appeal, which the court denied on July 29, 2010. Doc. #1-4  
8 at 60-61. The California Supreme Court denied a petition for review  
9 filed there on September 1, 2010. Id. at 62-63. The instant  
10 federal petition followed.

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12 II

13 Petitioner seeks federal habeas corpus relief due to BPH's  
14 failure to grant him parole at his June 5, 2009 parole suitability  
15 hearing on the ground that the decision is not supported by some  
16 evidence demonstrating his future dangerousness and that he poses a  
17 current threat to public safety. Liberally construed, Petitioner's  
18 claim appears colorable under the law and merits an Answer from  
19 Respondent.

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21 III

22 For the foregoing reasons and for good cause shown,  
23 1. The Clerk shall serve by certified mail a copy of  
24 this Order and the Petition, and all attachments thereto, on  
25 Respondent and Respondent's attorney, the Attorney General of the  
26 State of California. The Clerk also shall serve a copy of this  
27 Order on Petitioner.

1                   2. Respondent shall file with the Court and serve on  
2 Petitioner, within sixty (60) days of the issuance of this Order, an  
3 Answer conforming in all respects to Rule 5 of the Rules Governing  
4 Section 2254 Cases, showing cause why a writ of habeas corpus should  
5 not be granted. Respondent shall file with the Answer and serve on  
6 Petitioner a copy of all portions of the state trial record that  
7 have been transcribed previously and that are relevant to a  
8 determination of the issues presented by the Petition.

9                   If Petitioner wishes to respond to the Answer, he shall do  
10 so by filing a Traverse with the Court and serving it on Respondent  
11 within thirty (30) days of his receipt of the Answer.

12                   3. In lieu of an Answer, Respondent may file a Motion to  
13 Dismiss on procedural grounds, as set forth in the Advisory  
14 Committee Notes to Rule 4 of the Rules Governing Section 2254 Cases.  
15 If Respondent files such a motion, Petitioner shall file with the  
16 Court and serve on Respondent an Opposition or Statement of  
17 Non-Opposition within thirty (30) days of receipt of the motion, and  
18 Respondent shall file with the Court and serve on Petitioner a Reply  
19 within fifteen (15) days of receipt of any Opposition.

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1           4. Petitioner is reminded that all communications with  
2 the Court must be served on Respondent by mailing a true copy of the  
3 document to Respondent's counsel. Petitioner also must keep the  
4 Court and all parties informed of any change of address.

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6           IT IS SO ORDERED.

7

8 DATED

10/25/10

  
THELTON E. HENDERSON  
United States District Judge